

SPEAKER LUEDTKE: The Chair recognizes Senator Barnett.

SENATOR BARNETT: Mr. President, I'd like to have Senator Duis go over these things he was talking about amending if he would.

SPEAKER LUEDTKE: Senator Duis.

SENATOR BARNETT: Can you explain to me what you were going to do if you brought this out?

SENATOR DUIS: What I'm trying to say here, if it was necessary on the floor of the Legislature, if this bill comes forth. The law now states that first degree sexual offense on the second offense has the twenty-five year mandatory sentence now. The bill I brought to you changes this to first offense and this includes, I realize, first degree sexual offense contains some of those that you said that you objected to. Now, Senator Barnett, if you will recall, I don't know whether I spoke to you about it or not. In the constitutional amendment which is on the floor now, the Committee did change this and amend it so that it now says, the fact that the person that was penetration by force or against their will, and I said if it was necessary on the floor of the Legislature to amend this particular law to state that on the first offense and leave the second offense as it is now, that I would be willing to do in order to satisfy those things which you mentioned in your talk the first time.

SENATOR BARNETT: Okay, now let's stay on the floor and let's you and I go through this a little bit. Let's look at the bill. Let's look at the code. If we did not have the bill, the law would read, and in the criminal code, it's right here, the law would read, "that first degree sexual assault second offense, minimum twenty-five years." It would be what you say you are willing to accept now as an amendment if it is needed? I'm going to go on what you said.

SENATOR DUIS: That's the way the law reads now.

SENATOR BARNETT: Right. It would say that. Now also, on section thirty-four, and you know that I'm trying to be as honest as I can on this debate but that section thirty-four, it already states in there, "any person who subjects another person to sexual penetration and overcomes the victim by force, threat of force, expressed or implied". It already has the force in that you talk about in the constitutional amendment. It's in here already. If you didn't have this bill at all, Herb, you'd have exactly what you want to do.

SENATOR DUIS: I want this bill now as a stop gap between that and the constitutional amendment.

SENATOR BARNETT: It already has that on it. The law is there.

SENATOR DUIS: What I'm saying to you, is that I would like this bill on the floor of the Legislature in its present form. If I would have to amend it, then it would be a horse of another color.

SENATOR BARNETT: Okay, but I am saying if we didn't have this bill before us, LB 555, it does exactly what you want to do.